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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,953	03/11/2004	Kari Niemela	NKO.031.A1	4858
76385	7590	01/21/2009	EXAMINER	
Hollingsworth & Funk, LLC			HEIBER, SHANTELL LAKETA	
8009 34th Avenue South				
Suite 125			ART UNIT	PAPER NUMBER
Minneapolis, MN 54425			2617	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/797,953	NIEMELA, KARI	
	Examiner	Art Unit	
	SHANTELL HEIBER	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 November 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 and 35-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 and 35-44 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 3/11/04 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on November 6, 2008 have been fully considered but they are not persuasive.
2. The applicant argues that ***Sinclair has not been shown to teach receiving captured speech of another user through a radio connection and reproducing the captured speech of the other user, as claimed in independent Claims 1, 15, 29, and 44.*** The examiner respectfully disagrees.
3. Sinclair discloses a user 100 of a mobile station 102 communicates with another mobile station user 104 and a fixed terminal voice user 106. [0030] Sinclair further discloses interactive fiction games can enable a user 100 to interact with other users 104 and 106. [0035] The virtual space 312 provides a mobile station user 100 with a perceptual awareness of other mobile station users 104, as in a telephone voice call **(providing the ability to capture speech, to receive and output audio part)[0036].**
Also see paragraphs [0100] and [0103].
4. Therefore, Sinclair discloses receiving captured speech of another user through a radio connection and reproducing the captured speech of the other user, as claimed in independent Claims 1, 15, 29, and 44.
5. Heden discloses a mobile station with the ability to support a Dual Transfer Mode (DTM). [0030]
6. Therefore, the combination of Sinclair and Heden disclose all limitations as described in amended Claim 30 for the purposes of providing acceptable quality of

service for a mobile station utilizing simultaneous transfer of voice and data in a wireless system for interacting with a game service where a user communicates with other users.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 15, 16, 29 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Sinclair et al. (Sinclair), U.S. Publication No. 2002/0191017.
3. **Regarding Claims 1, 15, 29 and 44,** Sinclair disclose a wireless portable game terminal comprising: a radio transceiver configured to transfer speech and game data through a radio connection to a telecommunication system; a loudspeaker configured to reproduce audio; a microphone configured to capture speech of a user of the wireless portable game terminal; and a processing unit coupled to the radio transceiver, the loudspeaker and the microphone configured to process the game data, to transfer the game data to and from another game terminal or a game server through the radio connection, to receive captured speech of another user through the radio connection, to output audio part of the game data and the captured speech of the other user through the loudspeaker, to capture speech of an user with the microphone, and to transfer the captured speech of the user to another game terminal or to a game server through the radio connection. **(Two players using mobile stations 102 and 300 are connected**

by wireless communication links to a network 306. The server 310 incorporates a wireless game center 508, which incorporates a game service 510 that supports the multi-player interactive fiction game. The user of the mobile station 300 establishes an interactive session 512 through both the network 306 and the wireless application protocol 504, to the game service 510. The user can interact with the game via the presented options by way of scroll and input keys. Voice commands may also be used for interaction with the game. A voice character makes use of an interactive voice response unit (IVRU) in order to incorporate voice content into the game. The game player interacts with the character by vocalizing a game action, i.e., speaking into the mobile station; [0039], [0045], [0052], [0085]-[0100] and [0103]).

4. Regarding Claims 2 and 16, Sinclair disclose wherein the processing unit and the transceiver are further configured to transfer the game data as in-band signaling in a speech channel of the radio connection. [0109]

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair in view of Heden, U.S. Publication No. 2006/0165027.

7. **Regarding Claim 30**, Sinclair discloses a network element of a telecommunication system comprising: a radio transceiver configured to transfer speech and game data; and a processing unit coupled to the radio transceiver, configured to transfer the speech and the game data to and from a wireless portable game terminal through the radio connection. [0039], [0045], [0052], [0085]-[0100] and [0103]. See rejection for claim 1 above.

8. Sinclair fails to disclose comprises a Dual Transfer Mode DTM radio connection.

9. In a similar field of endeavor, Heden discloses a considering mobile station capability in negotiating quality of service for packet switched services. Heden further comprises a Dual Transfer Mode DTM radio connection. [0030]

10. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to negotiate a quality of service (Heden) in a wireless system for interacting with a game service (Sinclair).

11. Claims 3-14, 17-28 and 35-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair in view of Heden.

12. **Regarding Claims 3 and 17**, Sinclair discloses the wireless portable game terminal, method and network element wherein the processing unit and the transceiver are further configured to transfer speech and the game data as described above.

13. Sinclair fails to disclose transferring in a packet-switched data channel of the radio connection.

14. Heden discloses transferring in a packet-switched data channel of the radio connection. [0019]

15. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to negotiate a quality of service (Heden) in a wireless system for interacting with a game service (Sinclair).

16. **Regarding Claims 4 and 18,** Sinclair discloses the wireless portable game terminal, method and network element wherein the processing unit and the transceiver are further configured to transfer the speech and the game data as described above.

17. Sinclair fails to disclose transferring in a circuit-switched data channel of the radio connection.

18. Heden discloses transferring in a circuit-switched data channel of the radio connection. **[0019]**

19. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to negotiate a quality of service (Heden) in a wireless system for interacting with a game service (Sinclair).

20. **Regarding Claims 5, 10, 12, 19, 24, 26, 39 and 41,** Sinclair discloses the wireless portable game terminal, method and network element as described above.

21. Sinclair fails to disclose wherein the radio connection comprises a Dual Transfer Mode DTM radio connection.

22. Heden discloses wherein the radio connection comprises a Dual Transfer Mode DTM radio connection. **[0030]**

23. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to negotiate a quality of service (Heden) in a wireless system for interacting with a game service (Sinclair).

24. **Regarding Claims 6-9, 20-23 and 35-38,** Sinclair discloses the wireless portable game terminal, method and network element wherein the processing unit and the transceiver are further configured to transfer the game data as described above.

Sinclair fails to disclose utilizing a General Packet Radio Service Transparent Transport Protocol GTTP, wherein the processing unit is further configured to check delay requirements and to transfer the data utilizing the GTTP, if the delay requirements meet a predetermined delay limit, wherein the processing unit is further configured to check the volume of the data, and to transfer the data utilizing GTTP, if the volume meets a predetermined volume limit and wherein the processing unit is further configured to check the block size of the game data, and to transfer the game data utilizing GTTP, if the block size meets a predetermined block size limit.

25. Heden discloses utilizing a General Packet Radio Service Transparent Transport Protocol GTTP, wherein the processing unit is further configured to check delay requirements and to transfer the data utilizing the GTTP, if the delay requirements meet a predetermined delay limit, wherein the processing unit is further configured to check the volume of the data, and to transfer the data utilizing GTTP, if the volume meets a predetermined volume limit and wherein the processing unit is further configured to check the block size of the game data, and to transfer the game data utilizing GTTP, if the block size meets a predetermined block size limit. **[0023], [0026] and [0029]**

26. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to negotiate a quality of service (Heden) in a wireless system for interacting with a game service (Sinclair).

27. **Regarding Claims 11, 13, 25, 27, 40 and 42,** Sinclair discloses the wireless portable game terminal, method and network element as described above.
28. Sinclair fails to disclose wherein the signaling resource comprises a Packet Flow Context PFC defined for the signaling.
29. Heden discloses wherein the signaling resource comprises a Packet Flow Context PFC defined for the signaling. **[0020], [0027] and [0031]-[0033]**
30. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to negotiate a quality of service (Heden) in a wireless system for interacting with a game service (Sinclair).
31. **Regarding Claims 14, 28 and 43,** Sinclair discloses the wireless portable game terminal, method and network element as described above.
32. Sinclair fails to disclose wherein the gaming specific resource comprises a Temporary Block Flow TBF defined by gaming specific Quality of Service attributes.
33. Heden discloses wherein the gaming specific resource comprises a Temporary Block Flow TBF defined by gaming specific Quality of Service attributes. **[0030]**
34. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to negotiate a quality of service (Heden) in a wireless system for interacting with a game service (Sinclair).

Conclusion

35. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANELL HEIBER whose telephone number is (571)272-0886. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H./
Examiner, Art Unit 2617
January 14, 2009

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617